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Attorney for Claimants

Benjamin Wylie and A.W. a minor

UNITED STATES BANKRUPTCY COURT
NORTHER DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

In re

PG&E Corporation,

and

PACIFIC GAS AND ELECTRIC COMPANY,

Debtors.

☐ Affects PG&E Corporation

☐ Affects Pacific Gas and Electric Company

☒ Affects both Debtors

*All paper shall be filed in the Lead Case, No.
19-30088-DM

Case No. 19-30088-DM

Chapter 11

Lead Case, Jointly Administered

**MOTION PURSUANT TO FED. R.
BANKR. PROC. 7015 AND 7017 TO JOIN
REAL PARTY IN INTEREST FOR
CLAIM PREVIOUSLY FILED; OR, IN
THE ALTERNATIVE, TO ENLARGE
TIME TO FILE PROOF OF CLAIM
PURSUANT TO FED. R. BANKR. PROC.
9006(b)(1); MEMORANDUM OF POINTS
AND AUTHORITIES; DECLARATION OF
ROBERT M. BONE**

Date: 12/15/20

Time: 10:00 a.m. (Pacific Time)

Place: Telephonic/Video Appearances Only

United States Bankruptcy Court

Courtroom 17,

450 Golden Gate Ave., 16th Floor

San Francisco, CA

Judge: Hon. Dennis Montali

Objection Deadline: December 8, 2020

BACKGROUND

Pursuant to Rules 7015 and 7017 of the Federal Rules of Bankruptcy Procedure, which incorporate Federal Rules of Civil Procedure 15 and 17, by this motion ("Motion"), Benjamin Wylie and A.W. (a minor child) ("Movants") move to add A.W. as an additional claimant and family member of Benjamin Wylie, A.W.'s Father. Mr. Wylie previously filed Proof of Claim, Claim Number 31133, attached to the Declaration of Robert M. Bone as Exhibit 1. As a result of counsel's mistaken omission, A.W. was not included in Mr. Wylie's Proof of Claim. They lived in the same household at the time of the fire and A.W. should have been included in the Proof of Claim. Alternatively, Movants seek an order expanding the time for them to file their Proof of Claim, and allow, Claim Number (not yet assigned), attached to the Declaration of Robert M. Bone as Exhibit 2, to be considered timely filed. Claim Number (not yet assigned) was filed on November 16, 2020.

This Motion is based upon the points and authorities set forth herein and the concurrently filed Notice of Hearing and Declaration of Robert M. Bone in support of the Motion, in addition to any evidence or oral argument presented at the time of any hearing on this matter. In support thereof, the Movants, by and through their undersigned counsel, respectfully represent as follows:

BASIS FOR RELIEF REQUESTED

The general bar date in these cases was October 21, 2019 ("Original Bar Date"). The process for submission of timely claims was continued after the Original Bar Date. Pursuant to the Stipulation Between Debtors and Official Committee of Tort Claimants to Extend Bar Date for Fire Claimants and for Appointment of Claims Representative (Dkt No. 4651), the Original Bar Date was extended for the benefit of Unfiled Fire Claimants to December 31, 2019 at 5:00 p.m. (Prevailing Pacific Time). The Debtors' Chapter 11 plan ("Plan") was confirmed by court order on June 20, 2020, and pursuant to the Notice of Effective Date, the Plan became effective as of July 1, 2020.

This Motion concerns the claim of Benjamin Wylie, whose minor daughter, A.W., was erroneously not included as a claimant on Mr. Wylie's original claim form at the time Mr. Bone originally submitted the claim for damages and losses that resulted from the Tubbs Fire.

1 Claimant's counsel sought to remedy this oversight through a request to the Fire Victim Trust to
2 add the individual. Unfortunately, it does not appear this can be done without leave of the Court
3 and therefore it is respectfully requested the Court grant such relief.

4 Under Rules 7015 and 7017 of Federal Bankruptcy Procedure (which incorporate Federal
5 Rules of Civil Procedure 15(c) and 17(a)(3)) because there is a lack of bad faith on the part of
6 Movants and their counsel in failing to include A.W. as part of Mr. Wyile's original claim, it is
7 respectfully requested the Court allow the addition of A.W. to the original claim, Claim Number
8 31133 .

9 In the alternative, to the extent that an extension of the bar date is required to effectuate the
10 purpose of Rules 7015 and 7017, it is respectfully requested the mistake should be allowed to be
11 corrected by permitting the late filing of the amended Proof of Claim under Bankruptcy Rule
12 9006(b).

13 Application of the so-called Pioneer factors shows that Movants' late filing is the result
14 of excusable neglect and therefore permissible under Rule 9006(b)(1). In permitting a creditor's
15 late filing under Bankruptcy Rule 9006(b)(1), the Supreme Court explained that Congress, by
16 empowering the courts to accept late filings where the failure to act was the result of excusable
17 neglect, plainly contemplated that courts would be permitted, where appropriate, to accept late
18 filings caused by inadvertence, mistake or carelessness, as well as by intervening circumstances
19 beyond the party's control. *Pioneer Inv. Servs. Co. v. Brunswick Associates L.P.*, (1993) 507 U.S.
20 380 at 388. The Supreme Court further clarified that whether a claimant's neglect of a deadline is
21 excusable is an equitable determination, taking account of all the relevant circumstances
22 surrounding the claimant's omission. See *id.* at 395. These equitable considerations include (1) The
23 danger of prejudice to the debtor, (2) The length of the delay and its potential impact on judicial
24 proceedings, (3) The reason for the delay, including whether it was within the reasonable control of
25 the movant, and (4) whether the movant acted in good faith.

26 As to the first such factor, Movants' late filing will cause no prejudice to Debtors, inasmuch
27 as the Plan has been confirmed, the associated Fire Victim Trust funded, and so the inclusion of
28

1 Movants' claim in the pool of fire victim claims will have no impact at all on the Debtors or the
2 bankruptcy estates.

3 As to the second Pioneer factor, Movants' delay in filing this claim and any resultant impact
4 on these proceedings are exceedingly modest and immaterial for the same reasons
5 that Debtors will not be prejudiced.

6 As to the third Pioneer factor, the reason for the delay and whether it was in Movants'
7 reasonable control, claimant's counsel has no excuse as to why A.W. was not included in the claim.
8 Claimant's counsel assigned an attorney with significant experience in handling personal injury
9 claims to contact claimants about their losses and other family members impacted by the Tubbs Fire
10 and draft the claim forms on behalf of the victims. Unfortunately, during the process the attorney
11 inadvertently left out and/or did not discover this claimant along with two other claimants that had
12 claims that should have been included with the related family members. The other claimants'
13 motions for relief have been filed concurrently with this motion. Those other motions request to
14 add Laurice Mogannam, wife of Nader Mogannam to Mr. Mogannam's Claim No. 31126, and
15 Cindy Mogannam, wife of Dr. Jiries Mogannam to Dr. Mogannam's Claim No. 31120. Claimant's
16 counsel did not uncover these omissions until our office began preparing the transmission of
17 supporting documents and the Claims Questionnaire due on December 31, 2020, to the Fire
18 Victim's Trust.

19 As to the final factor, Movants are acting in good faith in filing the claim as they are victims
20 of the Tubbs Fire that but for the mistake, they would have been included in claims already timely
21 filed in the Court. Based on the above, Claimant's counsel requests the claims be allowed due to
22 his own neglect as opposed to that of the victim of the Tubbs Fire.

23 CONCLUSION

24 For the reasons set forth above, Movants respectfully request that this Court enter an
25 order pursuant to Bankruptcy Rules 7015, 7017, and 9006(b)(1) as follows:

- 26 1. Granting this Motion;
- 27 2. Directing that A.W. be added as a claimant to Exhibit 1, the Claim Number 31133; or in
28 the alternative;

1 3. Directing that Exhibit 2, the Proof of Claim, Claim Number (not yet assigned), be deemed
2 timely filed;

3 4. Granting such other or further relief as the Court deems just and proper.

4 Dated: November 17, 2020.

Law Office of Robert M. Bone

6 By: /s/ Robert M. Bone

7 ROBERT M. BONE

8 Attorneys for Claimants

DECLARATION OF ROBERT M. BONE IN SUPPORT OF MOTION

I, Robert M. Bone, hereby declare:

1. I am an attorney at law duly licensed to practice before all state and federal courts of the State of California.

2. My law firm represents wildfire victims who sustained losses from the Tubbs Fire in 2017. My firm has timely filed on behalf of approximately 140 claimants with Prime Clerk for losses our clients have suffered as a result of the Northern California Fires in 2017 and 2018.

3. I have significant experience in handling personal injury claims and it was my responsibility to contact claimants about their losses and other family members impacted by the Tubbs Fire and draft the claim forms on behalf of the victims. Unfortunately, during the process I inadvertently left out and/or did not discover this claimant, A.W. a minor child, daughter of claimant Benjamin Wylie, along with two other claimants that had claims that should have been included with the related family members. The two other claimants motions for relief have been filed concurrently with this motion. Those other motions request to add Laurice Mogannam, wife of Nader Mogannam to Mr. Mogannam's Claim No. 31126, and Cindy Mogannam, wife of Dr. Jiries Mogannam to Dr. Mogannam's Claim No. 31120.

4. Claimant Benjamin Wylie timely filed a timely Proof of Claim in this matter on October 17, 2019 for various losses caused by the Tubbs Fire. See Exhibit 1 attached hereto.

5. In reviewing Mr. Wylie's claim form in anticipation of transmission of the Claims Questionnaire due on December 31, 2020 to the Fire Victim's Trust, it was discovered that I inadvertently failed to include A.W., a minor child, in the Proof of Claim attached hereto as Exhibit 1. A.W. should have been included as a member of the same household. Unfortunately, I did not discover the omission of this fire victim and the above until after the deadline to file a Proof of Claim.

6. On November 16, 2020, I filed an amended Proof of Claim that included

1 A.W., Claim No. (not yet assigned) (See Exhibit 2 attached hereto.) We also sought guidance from
2 the Fire Victim's Trust about adding A.W. to the claim. Unfortunately, it does not appear this can
3 be done without leave of the Court and therefore I am respectfully requesting the Court grant such
4 relief.

5 7. All statements in this declaration are based on my own personal knowledge
6 and observation and from my review of the court and business records in this case, or upon
7 information and belief as indicated. If called to testify on this matter, I can and would competently
8 testify to the matters set forth in this Declaration.

9 8. I declare under penalty of perjury pursuant to the laws of the United States of
10 America that the foregoing is true and correct.

11 Executed this 16th day of November, 2020, in Santa Rosa, California.

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13 Dated: November 17, 2020.

Law Office of Robert M. Bone

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15 By: /s/ Robert M. Bone
16 ROBERT M. BONE
17 Attorneys for Claimants
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EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO DIVISION)

In re:
**PG&E CORPORATION,
- and -
PACIFIC GAS AND ELECTRIC
COMPANY,**
Debtors.

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11
(Lead Case)
(Jointly Administered)

Proof of Claim (Fire Claim Related)

Read the instructions before filing this claim form. This form is for tort claimants who have a claim against the Debtors (i.e. PG&E Corporation and Pacific Gas and Electric Company) that arose prior to the Debtors filing for bankruptcy (i.e. prior to January 29, 2019) and that arose from, or relates to, a fire.

Do not use this form for non-fire claims. Non-fire tort claimants should use Form 410.

Do NOT file a fraudulent claim. A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Please type or print in the spaces below. Do NOT use red ink or pencil.

Part 1: Identify the Claim

1. Who is the current creditor? <u>WYLIE, BENJAMIN JUDE</u> Name of the current creditor (the person or entity to be paid for this claim)		
2. Has this claim been acquired from someone else? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____		
3. Are you filing this claim on behalf of your family? A family is a group of two or more people related by birth, marriage, domestic partnership, or adoption and residing together. All such people are considered as members of one family. <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If you checked "Yes", please provide the full name of each family member that you are filing on behalf of: _____		
4. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Name: <u>WYLIE, BENJAMIN JUDE</u> Attorney Name (if applicable): <u>Bone, Robert M</u> Attorney Bar Number (if applicable): <u>181526</u> Street Address: <u>645 FOURTH STREET, SUITE 205</u> City: <u>SANTA ROSA</u> State: <u>CA</u> Zip Code: <u>95404</u> Phone Number: <u>(707)525-8999</u> Email Address: <u>bob@robertbonelaw.com</u>	Where should payments to the creditor be sent? (if different) Name: <u>WYLIE, BENJAMIN JUDE</u> Attorney Name (if applicable): <u>Crowley, Daniel F</u> Attorney Bar Number (if applicable): <u>130261</u> Street Address: <u>P.O. BOX R</u> City: <u>SAN RAFAEL</u> State: <u>CA</u> Zip Code: <u>94913</u> Phone Number: <u>(707)525-8999</u> Email Address: <u>dcrowley@dcalaw.com</u>
5. Does this claim amend one already filed? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY		
6. Do you know if anyone else has filed a proof of claim for this claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____		

Part 2: Give Information About the Claim as of the Date this Claim Form is Filed

7. What fire is the basis of your claim? Check all that apply.	<input type="checkbox"/> Camp Fire (2018) <input checked="" type="checkbox"/> North Bay Fires (2017) <input type="checkbox"/> Ghost Ship Fire (2016) <input type="checkbox"/> Butte Fire (2015) <input type="checkbox"/> Other (please provide date and brief description of fire: _____)
8. What are the loss location(s) where you and/or your family suffered harm? (e.g. home or business address, place of injury, place from which you were evacuated, if different?)	Location(s): 25 Winter Brook Ln, Santa Rosa, CA 95404-6419
9. How were you and/or your family harmed? Check all that apply	<input checked="" type="checkbox"/> Property Damage (homes, structures, personal property, land, trees, landscaping, and all other property damage) <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Renter <input type="checkbox"/> Occupant <input type="checkbox"/> Other (Please specify): _____ <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Wrongful Death (if checked, please provide the name of the deceased) Name: _____ <input checked="" type="checkbox"/> Business Loss/Interruption <input checked="" type="checkbox"/> Lost wages and earning capacity <input checked="" type="checkbox"/> Loss of community and essential services <input type="checkbox"/> Agricultural loss <input type="checkbox"/> Other (Please specify): _____
10. What damages are you and/or your family claiming/seeking? Check all that apply	<input checked="" type="checkbox"/> Economic damages (including replacement cost of damaged property, diminution in value, loss of use, lost inventory, lost profits, and other economic damage) <input checked="" type="checkbox"/> Non-economic damages (including loss of society and support, loss of consortium, pain and suffering, emotional distress, annoyance and discomfort, and other non-economic damage) <input checked="" type="checkbox"/> Punitive, exemplary, and statutory damages <input checked="" type="checkbox"/> Attorney's fees and litigation costs <input checked="" type="checkbox"/> Interest <input checked="" type="checkbox"/> Any and all other damages recoverable under California law <input type="checkbox"/> Other (Please specify): _____
11. How much is the claim?	_____ (optional) <input checked="" type="checkbox"/> Unknown / To be determined at a later date

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/24/2019 (mm/dd/yyyy)

/s/Robert M. Bone

Signature

Name	Robert	Murray	Bone
	First name	Middle name	Last name

Title	Principal
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Company	Law Office of Robert M. Bone
	Identify the corporate servicer as the company if the authorized agent is a servicer.

Address	645 Fourth Street, Suite 205		
	Number	Street	
	Santa Rosa	CA	95404
	City	State	ZIP Code

Contact phone	7075258999	Email	bob@robertbonelaw.com
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EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO DIVISION)

In re:
PG&E CORPORATION,
- and -
PACIFIC GAS AND ELECTRIC
COMPANY,
Debtors.

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11
(Lead Case)
(Jointly Administered)

Proof of Claim (Fire Claim Related)

Read the instructions before filing this claim form. This form is for tort claimants who have a claim against the Debtors (i.e. PG&E Corporation and Pacific Gas and Electric Company) that arose prior to the Debtors filing for bankruptcy (i.e. prior to January 29, 2019) and that arose from, or relates to, a fire.

Do not use this form for non-fire claims. Non-fire tort claimants should use Form 410.

Do NOT file a fraudulent claim. A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Please type or print in the spaces below. Do NOT use red ink or pencil.

Part 1: Identify the Claim

1. Who is the current creditor?	Benjamin Wylie Name of the current creditor (the person or entity to be paid for this claim)	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Are you filing this claim on behalf of your family? A family is a group of two or more people related by birth, marriage, domestic partnership, or adoption and residing together. All such people are considered as members of one family.	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If you checked "Yes", please provide the full name of each family member that you are filing on behalf of: Kristina Militello (clm. no. 31134) A.W., a minor child (daughter) _____ _____ _____	
4. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Name Benjamin Jude Wylie Attorney Name (if applicable) Robert M. Bone Attorney Bar Number (if applicable) 181526 Street Address 645 Fourth Street, Suite 205 City Santa Rosa State CA Zip Code 95404 Phone Number (707) 525-8999 Email Address bob@robertbonelaw.com	Where should payments to the creditor be sent? (if different) Name Benjamin Jude Wylie Attorney Name (if applicable) Daniel F. Crowley Attorney Bar Number (if applicable) 130261 Street Address P.O. Box R City San Rafael State CA Zip Code 94913 Phone Number (707) 525-8999 Email Address bob@robertbonelaw.com
5. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) 31133 Filed on 10/17/2019 MM / DD / YYYY	
6. Do you know if anyone else has filed a proof of claim for this claim?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Who made the earlier filing? K. Militello (aka Christie Wylie)	

Part 2: Give Information About the Claim as of the Date this Claim Form is Filed**7. What fire is the basis of your claim?**

Check all that apply.

- ☐ Camp Fire (2018)
☒ North Bay Fires (2017)
☐ Ghost Ship Fire (2016)
☐ Butte Fire (2015)
☐ Other (please provide date and brief description of fire: _____)

8. What are the loss location(s) where you and/or your family suffered harm? (e.g. home or business address, place of injury, place from which you were evacuated, if different?)

Location(s): 25 Winter Brook Lane, Santa Rosa, CA 95404-6419

9. How were you and/or your family harmed?

Check all that apply

- ☒ Property Damage (homes, structures, personal property, land, trees, landscaping, and all other property damage)
☒ Owner ☐ Renter ☐ Occupant ☐ Other (Please specify): _____
☒ Personal Injury
☐ Wrongful Death (if checked, please provide the name of the deceased) _____
☒ Business Loss/Interruption
☒ Lost wages and earning capacity
☒ Loss of community and essential services
☐ Agricultural loss
☐ Other (Please specify): _____

10. What damages are you and/or your family claiming/seeking?

Check all that apply

- ☒ Economic damages (including replacement cost of damaged property, diminution in value, loss of use, lost inventory, lost profits, and other economic damage)
☒ Non-economic damages (including loss of society and support, loss of consortium, pain and suffering, emotional distress, annoyance and discomfort, and other non-economic damage)
☒ Punitive, exemplary, and statutory damages
☒ Attorney's fees and litigation costs
☒ Interest
☒ Any and all other damages recoverable under California law
☐ Other (Please specify): _____

11. How much is the claim?

- ☐ \$ _____ (optional)
☒ Unknown / To be determined at a later date

Part 3: Sign Below

The person completing this proof of claim must sign and date it.
FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.
18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
☒ I am the creditor's attorney or authorized agent.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Signature: Robert M. Bone
Robert M. Bone (Nov 16, 2020 15:11 PST)

Email: bob@robertbonelaw.com

Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Robert M. Bone</u>		
	First name	Middle name	Last name
Title	<u></u>		
Company	<u>Law Office of Robert M. Bone</u>		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	<u>645 Fourth Street, Suite 205</u>		
	Number	Street	
	<u>Santa Rosa</u>	<u>CA</u>	<u>95404</u>
	City	State	ZIP Code
Contact phone	<u>(707) 525-8999</u>	Email	<u>bob@robertbonelaw.com</u>